

REMARKS

Prior to this Reply, Claims 1-16 were pending. Through this Reply, Claims 1, 7, 9 and 15 have been amended, while Claim 4 has been cancelled. In addition, Claims 17-19 have been added. Accordingly, Claims 1-3 and 5-19 are now at issue in the present case.

I. Claim Rejections under 35 USC § 112

The Examiner rejected Claim 4 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner found the term “a gear” to be vague and indefinite. The Examiner stated that one of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 4 has been cancelled. Accordingly, Applicant submits that the rejection is now moot.

II. Claim Rejections under 35 USC § 102(b)

The Examiner rejected Claims 1-3 and 5-16 under 35 USC § 102(b) as being anticipated by U.S. Patent No. 1,211,379 to Maisch (hereinafter “Maisch”). Without necessarily agreeing with the Examiner, Applicant has amended certain claims in order to clarify such claims.

Specifically, Claim 1 now requires: “a backboard assembly having first and second opposing sides, wherein the first rim is connected to the first side of the backboard assembly and the second rim is connected to the second side of the backboard assembly.” Support for such limitation can be found, at least, in Figs. 2, 3, 5 and 7. It should be understood that the backboard assembly may include a single backboard (see Fig. 2) or multiple backboards, as

shown in Fig. 5 and as described in paragraph 0048 of the present application as published (US 2008/0261726).

Maisch does not disclose the above-quoted limitation. Accordingly, Applicant submits that Claim 1 is patentably distinguishable from Maisch. Claims 2, 3, 5-8 and 17-19 depend from Claim 1 and, for at least the reasons presented with respect to Claim 1, are patentably distinguishable from Maisch.

Claim 9 has been amended to include language similar to that found in Claim 1. Accordingly, Applicant submits that Claim 9 is patentably distinguishable from Maisch. Claims 10-16 depend from Claim 9 and, for at least the reasons presented with respect to Claim 9, are patentably distinguishable from Maisch.

Applicant notes that, during the international phase, Applicant amended Claims 1 and 9, so as to clarify such claims, when responding to a Written Opinion. No other claims were amended during the international phase. Applicant received a favorable International Preliminary Examination Report with respect Claims 1-16.

Apparently, the amendments made to Claims 1 and 9 in the international phase were not incorporated in the U.S. national phase (i.e., the present application), as evidenced by the claims as published in U.S. Patent Application Publication No. 2008/0261726 and by the present Office Action. Applicant has made the additional amendments shown in Claims 1 and 9, so that the remainder of each of such claims is consistent with the claims as examined during the international phase.

Claim 7 has been amended for clarification. Claim 7 now states that “the first rim and the second rim may be interposed by pivoting about an axis that does not correspond with the center of the first rim or the center of the second rim” (emphasis added). Support for such limitation

can be found in Fig. 8 and in paragraphs 0071-0073 of the present application as published (US 2008/0261726).

Maisch does not disclose the above-quoted limitation. Accordingly, Applicant submits that Claim 7 is patentably distinguishable from Maisch. Claim 8 depends from Claim 8 and, for at least the reasons presented with respect to Claim 7, is patentably distinguishable from Maisch.

Claim 15 has been amended to include language similar to that found in Claim 7. Accordingly, Applicant submits that Claim 15 is patentably distinguishable from Maisch. Claim 16 depends from Claim 15 and, for at least the reasons presented with respect to Claim 15, is patentably distinguishable from Maisch.

For at least the above reasons, Applicant submits that all of the rejections under 35 USC § 102(b) have been overcome.

III. Claim Rejections under 35 USC § 103(a)

The Examiner rejected Claims 9, 11-17, 20, 21 and 25 under 35 USC § 103(a) as being unpatentable over Maisch as applied above and further in U.S. Patent No. 5,540,428 to Joseph.

When filed, the present application included a total of 16 claims. However, the rejection refers to Claims 17, 20, 21 and 25. Applicant believes that an error has been made by the U.S. Patent and Trademark Office. Accordingly, Applicant submits that the rejection should be withdrawn or, at least, clarified, so that Applicant can have a proper opportunity to respond.

IV. New Claims

Applicant has added new dependent Claims 17-19. Support for such claims is provided below. No new matter has been added.

Claim 17 depends from Claim 3 and states: “wherein the backboard assembly includes a first backboard and a second backboard, and wherein the first rim is connected to the first backboard and the second rim is connected to the second backboard.” Support for Claim 17 can be found, at least, in Fig. 5 and in paragraph 0048 of the present application as published (US 2008/0261726).

Claim 18 depends from Claim 17 and requires: “a gear associated with the first and second backboards, which is used to elevate or lower the second rim relative to the first rim.” Support for Claim 18 can be found, at least, in paragraph 0067 of the present application as published (US 2008/0261726).

Claim 19 depends from Claim 1 and states: “wherein the backboard assembly is a single backboard.” Support for Claim 19 can be found, at least, in Figs. 2 and 3, and in paragraph 0048 of the present application as published (US 2008/0261726).

The cited references do not appear to disclose the limitations of Claims 17 and 18. With respect to Claim 19, the cited references do not appear to disclose the limitations found therein in combination with the limitations found in independent Claim 1. Accordingly, Applicant submits that new Claims 17-19 are patentably distinguishable from the cited references.

V. Claim Fees

Applicant previously paid claim fees for three (3) independent claims and twenty (20) total claims. In view of amendments discussed herein, Applicant believes that no additional claim fees are due. However, the Commissioner is hereby authorized to charge Deposit Account No. 50-2198 for any fee deficiencies associated with filing this paper.

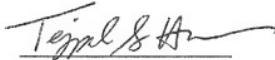
VI. Conclusion

It is believed that the above comments establish patentability. Applicant does not necessarily accede to the assertions and statements in the Office Action, whether or not expressly addressed.

Applicant believes that the application appears to be in form for allowance. Accordingly, reconsideration and allowance thereof is respectfully requested.

The Examiner is invited to contact the undersigned at the below-listed telephone number regarding any matters relating to the present application.

Respectfully submitted,



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